

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 558

BY SENATOR KARNES

[Introduced March 3, 2021; referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §5-11-9b; to amend said code by adding thereto a new section, designated
 3 §18-2-44; and to amend said code by adding thereto a new section, designated §11B-2-
 4 33, all relating to prohibiting discriminatory “divisive acts” in the workplace and adding to
 5 the definition of the Human Rights Act; prohibiting the teaching of “divisive acts” in West
 6 Virginia schools; and prohibiting state funding to agencies who promote “divisive acts”.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 7. GENERAL POWERS AND AUTHORITY OF THE
 GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;
 BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,
 COMMISSIONS, OFFICES, PROGRAMS, ETC.**

ARTICLE 11. HUMAN RIGHTS COMMISSION.

§5-11-9b. Divisive Acts Classified as Prohibited Discrimination.

1 It shall be the policy of the State of West Virginia not to promote race or sex stereotyping
 2 or scapegoating in the workforce, and not to allow grant funds to be used for these purposes. In
 3 addition, state contractors will not be permitted to inculcate such views in their employees.

4 For the purposes of definition, the phrase:

5 (a) “Divisive concepts” means the concepts that (1) one race or sex is inherently superior
 6 to another race or sex; (2) the United States is fundamentally racist or sexist; (3) an individual, by
 7 virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or
 8 unconsciously; (4) an individual should be discriminated against or receive adverse treatment
 9 solely or partly because of his or her race or sex; (5) members of one race or sex cannot and
 10 should not attempt to treat others without respect to race or sex; (6) an individual’s moral character
 11 is necessarily determined by his or her race or sex; (7) an individual, by virtue of his or her race

12 or sex, bears responsibility for actions committed in the past by other members of the same race
 13 or sex; (8) any individual should feel discomfort, guilt, anguish, or any other form of psychological
 14 distress on account of his or her race or sex; or (9) meritocracy or traits such as a hard work ethic
 15 are racist or sexist, or were created by a particular race to oppress another race. The term “divisive
 16 concepts” also includes any other form of race or sex stereotyping or any other form of race or
 17 sex scapegoating.

18 (b) “Race or sex stereotyping” means ascribing character traits, values, moral and ethical
 19 codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race
 20 or sex.

21 (c) “Race or sex scapegoating” means assigning fault, blame, or bias to a race or sex, or
 22 to members of a race or sex because of their race or sex. It similarly encompasses any claim that,
 23 consciously or unconsciously, and by virtue of his or her race or sex, members of any race are
 24 inherently racist or are inherently inclined to oppress others, or that members of a sex are
 25 inherently sexist or inclined to oppress others.

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-44. Curriculum Promoting “Divisive Acts” Prohibited.

1 It shall be the policy of the State Board of Education of West Virginia not to promote race
 2 or sex stereotyping or scapegoating in schools, and not to allow schools to use curriculum that
 3 promotes “divisive acts.”

4 For the purposes of this definition, the phrase:

5 (a) “Divisive concepts” means the concepts that (1) one race or sex is inherently superior
 6 to another race or sex; (2) the United States is fundamentally racist or sexist; (3) an individual, by
 7 virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or
 8 unconsciously; (4) an individual should be discriminated against or receive adverse treatment

9 solely or partly because of his or her race or sex; (5) members of one race or sex cannot and
 10 should not attempt to treat others without respect to race or sex; (6) an individual's moral character
 11 is necessarily determined by his or her race or sex; (7) an individual, by virtue of his or her race
 12 or sex, bears responsibility for actions committed in the past by other members of the same race
 13 or sex; (8) any individual should feel discomfort, guilt, anguish, or any other form of psychological
 14 distress on account of his or her race or sex; or (9) meritocracy or traits such as a hard work ethic
 15 are racist or sexist, or were created by a particular race to oppress another race. The term "divisive
 16 concepts" also includes any other form of race or sex stereotyping or any other form of race or
 17 sex scapegoating.

18 (b) "Race or sex stereotyping" means ascribing character traits, values, moral and ethical
 19 codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race
 20 or sex.

21 (c) "Race or sex scapegoating" means assigning fault, blame, or bias to a race or sex, or
 22 to members of a race or sex because of their race or sex. It similarly encompasses any claim that,
 23 consciously or unconsciously, and by virtue of his or her race or sex, members of any race are
 24 inherently racist or are inherently inclined to oppress others, or that members of a sex are
 25 inherently sexist or inclined to oppress others.

CHAPTER 11B. DEPARTMENT OF REVENUE.

ARTICLE 2. STATE BUDGET OFFICE.

§11B-2-33. Money to Agencies Who Promote "Divisive Acts" Prohibited.

1 It shall be the policy of the State of West Virginia to prohibit state funding for state agencies
 2 who promote race or sex stereotyping or scapegoating, and it shall be prohibited for any state
 3 funding to go towards West Virginia agencies who promote "divisive acts."

4 For the purposes of this definition, the phrase:

5 (a) "Divisive concepts" means the concepts that (1) one race or sex is inherently superior

6 to another race or sex; (2) the United States is fundamentally racist or sexist; (3) an individual, by
7 virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or
8 unconsciously; (4) an individual should be discriminated against or receive adverse treatment
9 solely or partly because of his or her race or sex; (5) members of one race or sex cannot and
10 should not attempt to treat others without respect to race or sex; (6) an individual's moral character
11 is necessarily determined by his or her race or sex; (7) an individual, by virtue of his or her race
12 or sex, bears responsibility for actions committed in the past by other members of the same race
13 or sex; (8) any individual should feel discomfort, guilt, anguish, or any other form of psychological
14 distress on account of his or her race or sex; or (9) meritocracy or traits such as a hard work ethic
15 are racist or sexist, or were created by a particular race to oppress another race. The term "divisive
16 concepts" also includes any other form of race or sex stereotyping or any other form of race or
17 sex scapegoating.

18 (b) "Race or sex stereotyping" means ascribing character traits, values, moral and ethical
19 codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race
20 or sex.

21 (c) "Race or sex scapegoating" means assigning fault, blame, or bias to a race or sex, or
22 to members of a race or sex because of their race or sex. It similarly encompasses any claim that,
23 consciously or unconsciously, and by virtue of his or her race or sex, members of any race are
24 inherently racist or are inherently inclined to oppress others, or that members of a sex are
25 inherently sexist or inclined to oppress others.

NOTE: The purpose of this bill is to prohibit discriminatory "divisive acts" in the workplace, to prohibit the teaching of "divisive acts" in West Virginia schools, and to prohibit state funding to agencies who promote "divisive acts."

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.